In the Supreme Court of the United States

OCTOBER TERM, 1970

No. 868

JOHN MICHAEL HARPER, PETITIONER

v.

UNITED STATES OF AMERICA
(FEDERAL AVIATION ADMINISTRATION)

ON PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE FIRST CIRCUIT

MEMORANDUM FOR THE UNITED STATES IN OPPOSITION

We invite the Court's attention to the following facts which demonstrate that the petition for a writ of certiorari was filed out of time. The judgment of the court of appeals was entered on June 8, 1970. By order dated August 20, 1970, Mr. Justice Marshall extended the time for filing a petition for a writ of certiorari to and including October 16, 1970. The petition was not filed until October 17, 1970.

Since the petition was not filed within the jurisdictional time limit fixed by Congress for civil cases

under 28 U.S.C. 2101(c), as here extended, the Court is without jurisdiction, and the petition should be denied.

Respectfully submitted.

ERWIN N. GRISWOLD,
Solicitor General.

NOVEMBER 1970.

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